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LETTER DATED 4 APRIL 1991 FROM THE PERMANENT REPRESENTATIVE OF KUWAIT TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I should like to refer to my letter and enclosure of 18 October 1990 (S/21887) concerning Decree-Law No. 3/A/1990 on the holding in trust by the State of Kuwait of property belonging to Kuwaitis and residents of Kuwait. Since the text of the Decree-Law was submitted in Arabic, I hereby submit the English text of the Decree-Law and the explanatory note, thereto.

I would appreciate it if this letter and its annex are circulated as a document of the Security Council.

(Signed) Mohammad A. ABULHASAN
Ambassador
Permanent Representative

Annex

Note relating to Decree-Law No. 3/A/1990 concerning the protective title of the State of Kuwait over property belonging to Kuwaitis or residents of Kuwait

The purpose of this Law is to enable the State of Kuwait, represented by its legitimate Government headed by His Highness the Crown Prince and Prime Minister Saad Al-Abdulla Al-Salem Al Sabah, to take all necessary and appropriate measures to protect property belonging to Kuwaitis or residents of Kuwait and to establish the right of the lawful Government to have recourse to foreign administrative and judicial authorities for the purpose of protecting such property. By notifying all Governments concerned, including the Iraqi Government, of this measure, the Government of Kuwait wishes to demonstrate its determination to protect property belonging to it, to its agencies and public institutions or to individuals, whether Kuwaitis or residents of Kuwait, from any violation by the Iraqi occupation authorities.

Decree-Law No. 3/A/1990 concerning the protective title of the State of Kuwait over property belonging to Kuwaitis or residents of Kuwait

Having examined the Constitution,

And the Amiri Decree dated 27 Shawwal 1406 H.
corresponding to 3 July 1986 A.D.

And the Amiri Decree dated 12 Muharram 1411 H.
corresponding to 3 August 1990 A.D.

And in view of the forcible occupation of the State of Kuwait by Iraqi forces since Thursday, 11 Muharram 1411 H.
corresponding to 2 August 1990 A.D.

And on the basis of the report of the Minister of Justice and Legal Affairs,

And following approval by the Council of Ministers,

We hereby issue the following Law:

Article 1

Property belonging to Kuwaiti nationals or to non-Kuwaitis domiciled in Kuwait, whether such property is situated inside or outside Kuwait, and whether it belongs to individuals or to bodies corporate, shall be subject to the protective title of the State of Kuwait as represented by its legitimate Government, in cases where such property has been lost or has been violated in any way whatsoever by the occupation authorities or by the Iraqi Government, or where the title or the control over it has been transferred to a third party without the consent of its owners. Such protective title is imposed to protect such property on behalf of its lawful owners.

Article 2

The protective title provided for in article 1 of this Law shall hereby give the State of Kuwait as represented by its legitimate Government the right to take, as and when necessary or appropriate, any and all judicial, administrative or legal measures in any State, with a view to protecting the aforementioned property. In particular, the legitimate Government as holder of such protective title, shall have the right to have recourse to the competent administrative or judicial authorities in any State in order to protect the aforementioned property, in cases where the occupation authorities take possession of, damage or destroy such property during the period of occupation, or dispose of such property directly or indirectly for the benefit of a third party, through, inter alia, measures of expropriation, nationalization or seizure, or any other measure of violation of or control over the property taken by the Iraqi Government, its agencies or its public entities.

The Government of Kuwait has, in particular, the right to order provisional and executionary attachment of property belonging to the Iraqi Government or to its agencies or public institutions situated abroad.

Article 3

For the purposes of this Law, property subject to the State of Kuwait's protective title shall include all movable and immovable property, including cash denominated in any national currency, precious metals, precious stones, securities, including shares, bonds, negotiable instruments, legal claims, accounts receivable, bank deposits and other instruments, as well as all other property or rights privately or publicly owned.

Article 4

After restoration of the normal situation in Kuwait and the termination of occupation, the legitimate Government of Kuwait shall adopt the measures required to suspend this Law, once the rights of the lawful owners have been established.

Article 5

This Law shall enter into force on 11 Muharram 1411 corresponding to 2 August 1990 A.D., the date on which Kuwait was occupied, and shall be published in the Official Gazette and transmitted through the diplomatic channel to the Governments of other countries.

(Signed) Jaber Al-Ahmad Al-Sabah
Amir of the State of Kuwait

(Signed) Saad Al-Abdulla Al-Salem Al Sabah
Prime Minister

(Signed) Dhari Abdullah Al-Uthman
Minister of Justice and Legal Affairs